



Executive Board

**Thursday, 10 January 2013 2.00 p.m.
The Boardroom, Municipal Building**

A handwritten signature in black ink, appearing to read 'David W R'.

Chief Executive

**ITEMS TO BE DEALT WITH
IN THE PRESENCE OF THE PRESS AND PUBLIC**

PART 1

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1. MINUTES	
2. DECLARATION OF INTEREST	
Members are reminded of their responsibility to declare any Disclosable Pecuniary Interest or Other Disclosable Interest which they have in any item of business on the agenda, no later than when that item is reached or as soon as the interest becomes apparent and, with Disclosable Pecuniary interests, to leave the meeting during any discussion or voting on the item.	
3. TRANSPORTATION PORTFOLIO	
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*Please contact Angela Scott on 0151 511 8670 or
Angela.scott@halton.gov.uk for further information.
The next meeting of the Committee is on Thursday, 24 January 2013*

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In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.

REPORT TO: Executive Board

DATE: 10th January 2013

REPORTING OFFICER: Strategic Director, Policy & Resources

PORTFOLIO: Transportation

SUBJECT: Extension of Existing Highways
Improvement and Maintenance Contracts

WARDS: Boroughwide

1.0 PURPOSE OF THE REPORT

1.1 In accordance with Procurement Standing Order 1.8.1, the purpose of this report is to outline the urgent circumstances requiring the Chief Executive to grant a waiver of Procurement Standing Orders.

2.0 RECOMMENDATION: That the Board note the waiver to Procurement Standing Orders Parts 1 and 3 granted by the Chief Executive in respect of approval of award of 2 month extensions of existing contracts for Highways Maintenance and Improvement.

3.0 SUPPORTING INFORMATION

3.1 Works associated with improvement and maintenance of the highway network are currently delivered through two separate term contracts with Lambros (Paving Contractors) Ltd and Amey LG Ltd respectively.

3.2 HBC's existing contracts with both Lambros and Amey expire on 31st March 2013

3.3 12th January 2012 Executive Board Sub-Committee received a report describing how the potential to procure a combined highways contract could, through economies of scale, increase value for money in works delivery.

3.4 It was also reported to the above Sub-Committee that in line with national guidance on increasing efficiency in procurement of highways services, opportunities for collaborative procurement with neighbouring authorities would be investigated.

3.5 This led to Halton and Warrington Borough Councils jointly embarking upon a procurement process which provided an opportunity for a single contractor to undertake highway and improvement services for both authorities though under separate contracts.

3.6 Invitations to Tender were issued to shortlisted organisations on 19th September 2012 with a required tender return date of 12th November

2012 This was in accordance with a procurement programme which made allowance for tender evaluation, Executive Board approval, award of contract and successful contractor mobilisation process by 1st April 2013.

- 3.7 However, during the week prior to tender return, as a result of a tenderer's question regarding pension provision and TUPE we identified deficiencies in the TUPE information provided by one of the incumbent contractors, particularly in relation to a number of employees of that company who may have been entitled to additional protection under TUPE by virtue of previous Local Government service. The Council does not provide the data but has a responsibility to facilitate its exchange from incumbent contractor to bidders. Accordingly action was taken to correct the deficiencies.
- 3.8 In order to fully understand the potential consequences of the deficiencies it was necessary to seek legal advice and to initiate consultation with the Cheshire Pension Fund. To accommodate this it was necessary to extend the tender return date by 3 weeks until 3rd December 2012.
- 3.9 The effect on the project programme of losing three weeks is significant as it means there is no possibility of completing all the evaluation processes in time for the 24th January 2012 Executive Board at which the recommendations of the evaluation team were due to be presented.
- 3.10 The procurement programme has been reviewed and due to the effect of the Christmas period now falling during tender evaluation, it will not now be possible to report to Executive Board for approval until 28th Feb 2013.
- 3.11 In order to allow the new contractor a reasonable period to mobilise for the contract it is believed that a realistic start date for the new contract would now be 1st June 2013.
- 3.12 It was considered essential that both Lambros and Amey Contracts were extended by 2 months in order to:
 - i. Ensure continuity of highways works services until the new contractor is operational
 - ii. Prevent any obstacle to the application of TUPE for relevant staff employed by the incumbent contractors.
- 3.13 The need to extend the current arrangements had to be treated as urgent in order to avoid risk of challenge to the procurement process. It was considered essential, in view of the involvement of incumbent contractors in bidding for the contract, that any processes concerned with extension of current provision should be completed before return of tenders to avoid any suggestion of impropriety.

3.14 The Chief Executive approved award of 2 month extensions to Amey and Lambros on 17th November 2012 and the terms and conditions of these extensions have now been agreed with the respective organisations.

4.0 POLICY IMPLICATIONS

4.1 None

5.0 OTHER IMPLICATIONS

5.1 Value for Money

Implementation of a combined Highway Improvement and Maintenance Term Contract, invites increased efficiency through incorporation of modern contractual practice, economies of scale and through a new competitive process. This should allow the Council to adapt more readily to the consequences of potential future reductions in capital grant and requirements to identify savings from revenue budgets.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

There are no direct implications arising from the recommendation.

6.2 Employment, Learning and Skills in Halton

There are no direct implications arising from the recommendation.

6.3 A Healthy Halton

There are no direct implications arising from the recommendation.

6.4 A Safer Halton

There are no direct implications arising from the recommendation.

6.5 Halton's Urban Renewal

There are no direct implications arising from the recommendation.

7.0 RISK ANALYSIS

7.1 The risk associated with not having continuity in service delivery prior to the new contract becoming operational related to:

- i. HBC being unable to satisfy statutory requirements and public expectation in areas of reactive and programmed maintenance and improvement works.
- ii. Increased Council exposure to risk of highways compensation claims.
- iii. Potential HBC liability for incumbent Contractor's staff redundancy costs associated with TUPE provisions not being accessible at

expiry of current contracts.

7.2 The prospect of not having extensions formalised prior to return of tenders could increase the risk of challenge to the procurement process.

8.0 EQUALITY AND DIVERSITY ISSUES

There are no issues relating to equality or diversity.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Notes of 12 th January 2012 Executive Board Sub-Committee	HBC Website & Intranet	Mike Bennett

REPORT TO: Executive Board

DATE: 10 January 2013

REPORTING OFFICER: Strategic Director, Policy and Resources

PORTFOLIO: Transportation

SUBJECT: Byelaws under Section 66 of the Land Drainage Act 1991

WARDS: Boroughwide

1.0 PURPOSE OF THE REPORT

1.1 To inform the Board about recent changes to the Council's regulatory powers under the Land Drainage Act 1991 (as amended by the Flood and Water Management Act 2010) and to seek its endorsement to the proposal to consult on a set of local land drainage byelaws.

2.0 RECOMMENDATION: That a consultation exercise be undertaken in connection with the draft Land Drainage Byelaws for Halton.

3.0 SUPPORTING INFORMATION

Background

3.1 On 6th April 2012, under the provisions of the Flood and Water Management Act 2010 (F&WMA), amendments to the Land Drainage Act (LDA) were enacted, which transferred certain powers in relation to the regulation of watercourses, from the Environment Agency (EA) to Halton Council as Lead Local Flood Authority for the area. Additionally, the Flood and Water Management Act amends Section 66 of the Land Drainage Act to allow local authorities to make byelaws for the following purposes:

- To secure the efficient working of a drainage system in its area;
- To regulate the effects of a drainage system on the environment;
- To secure the effectiveness of flood risk management work (carried out under either the F&WMA or the LDA)

3.2 In preparation for the transfer of duties and powers described above, Defra have prepared a set of Model Land Drainage Byelaws and have issued guidance for Local Authorities on making byelaws under Section 66 (LDA). The byelaws are broadly similar to those operated for many years by the Environment Agency and are appended as Appendix 1 to this report.

3.3 Partner members of the Cheshire and Mid Mersey Flood Risk Management Group have considered the model byelaws and have

agreed that they would be a very useful tool across the region in which the partnership operates for the regulation of ordinary watercourses. The making of Byelaws is not mandatory but it is seen as a key element at a tactical level to deliver flood risk management. Without byelaws, the application of the consenting and enforcing powers and duties will be very difficult.

- 3.4 At its meeting of 21 November 2012, the Environment and Urban Renewal Policy and Performance Board considered a report on the Council's new duties and powers in relation to ordinary watercourse regulation and endorsed the proposal to seek Executive Board approval for a set of Land Drainage Byelaws for Halton.
- 3.5 The model byelaws contain (inter-alia) provisions to control a range of factors that might affect (or have the potential to affect) the flow of water in a watercourse and therefore may impact on flood risk, such as:
 - The introduction and control of flow into and within watercourses;
 - Alterations to watercourses;
 - Activities within and close to the banks of watercourses;
 - Damage and obstruction to watercourses, and associated structures and property.
- 3.6 The model byelaws set out circumstances where and when the consent of the Council is required for certain works; when the directions of the Council must be complied with; or when certain actions are required by formal notice served under the provisions of the LDA. Due to current resource and budgetary constraints, there are no plans at present to undertake routine regular inspections of ordinary watercourses within the Borough. Therefore byelaw contraventions will generally only come to light as a result of problems arising, third party reports or from other inspections or surveys. It is proposed to adopt a proportionate, risk based approach to watercourse regulation and to the enforcement of the proposed byelaws.
- 3.7 The procedure for making byelaws is outlined in section 236 of the Local Government Act 1972. Also, Defra has published guidance for local authorities on making byelaws under section 66 of the Land Drainage Act 1991. Under the Council's Constitution "making and amending byelaws" is reserved to full Council.
- 3.8 The procedure and proposed timetable for the making of Byelaws under Section 66 LDA is shown in Appendix 2.
 - Early consultation with Defra on the draft documents is recommended, however, as the adoption of the 'Model' byelaws is proposed, this should be a formality.
 - There is then a need to consult initially with the canal and river navigation authorities (to avoid conflict or interference with their

byelaws) and Natural England due to the potential impact on designated sites or species.

- 3.9 Objections to the proposed byelaws are considered by and dealt with by the Council. Ideally, any objections will be resolved and withdrawn before the byelaws are submitted to the appropriate Minister within Defra for confirmation.
- 3.10 The proposed byelaws relate to ordinary watercourses. These are watercourses which do not come within the category of 'main river'. Main rivers remain the responsibility of the Environment Agency and are subject to separate byelaws.

4.0 POLICY IMPLICATIONS

- 4.1 The making of byelaws is a policy matter reserved to full Council in the Constitution. This report seeks authorisation to begin the process of byelaw making by carrying out a consultation exercise.

5.0 OTHER IMPLICATIONS

5.1 Resource Implications

The costs associated with the implementation of local land drainage byelaws are principally administrative, comprising officer time in managing the process (e.g. consultation & liaison, reporting, making, advertising and dealing with objections etc.) and sundry costs (printing, postage, newspaper advertising etc.) These costs will largely be borne through existing staffing revenue budgets and via the area based grant to LLFAs to deal with flood risk management.

As stated in paragraph 3.6, there are no plans at present to undertake routine regular inspections that would generate enforcement action in relation to ordinary watercourses. It is anticipated that the majority of issues that arise will be resolved through negotiation and informal action, the costs of which will be borne through existing budgets, as above. However, there would be more significant staff resource implications and legal costs if enforcement progresses through to a stage where prosecution action is taken against offenders, when all other avenues have been exhausted. The workload associated with watercourse regulation previously undertaken by the EA in Halton, has historically been low and there is no reason to suspect that this will change. There were no applications for consent in 2010/11 and only one in 2011/12. Over the same period, the EA took enforcement action in one case (although this did proceed to court).

The implementation of these byelaws are intended to support the Council's existing powers and duties under the LDA, which already provide for enforcement sanctions including the serving of notices, undertaking works (including the recovery of associated costs) and

prosecution for non-compliance. The adoption of these byelaws should make the Council's regulatory role in relation to ordinary watercourses more straightforward and efficient to manage.

5.2 Sustainability Checklist

The regulation and control of activities in and around ordinary watercourses is a key consideration in ensuring the sustainable development of new sites and in the regeneration of existing sites across the Borough. The adoption of land drainage byelaws is seen as a valuable tool in achieving this.

5.3 Legal Implications

Byelaws are a form of 'delegated legislation' whose operation is usually restricted in order to control or regulate activities in certain places. The enforcement of the proposed land drainage byelaws will be undertaken for the purpose of securing appropriate management of flood risk in Halton. Byelaws create criminal offences which can be prosecuted in Magistrates Courts. Breaches of byelaws can lead to a fine, the maximum being generally between £500 and £2,500.

5.4 Community Impact Review & Assessment (CIRA)

Based upon the principal aims of watercourse regulation contained in the amendments to the Land Drainage Act and the proposed byelaws, the potential impact of the policies and practices are judged to be neutral and low across all equality strands. Therefore, a CIRA is not required in this instance.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

There are no implications for Halton's Children and Young People priority.

6.2 A Healthy Halton

There are no implications for Halton's health priority.

6.3 Employment, Learning and Skills in Halton

There are no implications for Halton's Employment, Learning and Skills priority.

6.4 A Safer Halton

The adoption of proposed byelaws will enable the Council to maintain safe and secure environments around ordinary watercourses and to manage flood risk across the Borough.

6.4 Children and Young People in Halton

There are no implications for Halton's Children and Young People priority.

6.5 Environment and Regeneration in Halton

Local regulation of watercourses through the consenting and enforcement processes under the LDA and by the adoption of proposed byelaws will enable the Council to maintain a high quality and sustainable environment, and protect and enhance key areas and public spaces around ordinary watercourses. The procedures will help to support the planning and development process, protecting the physical and natural environment as sites are brought forward for development and regeneration.

7.0 RISK ANALYSIS

- 7.1 There are no significant risks associated with the proposals to consult on the draft land drainage byelaws for Halton and therefore a full risk assessment is not required.

8.0 EQUALITY AND DIVERSITY ISSUES

There are no equality and diversity issues arising from the report.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Land Drainage Act 1991	HBC Highways Offices Rutland House, Runcorn	Dave Cunliffe
Flood and Water Management Act 2010	HBC Highways Offices Rutland House, Runcorn	Dave Cunliffe
Defra Guidance for Local Authorities on making byelaws under section 66 of the Land Drainage Act 1991	HBC Highways Offices Rutland House, Runcorn	Dave Cunliffe

MODEL LAND DRAINAGE BYELAWS

LOCAL AUTHORITIES

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Common Seal

Penalty Note

Amended July 2012

.....**COUNCIL LAND DRAINAGE BYELAWS**

TheCouncil under and by virtue of the powers and authority vested in them by section 66 of the Land Drainage Act 1991, do hereby make the following Byelaws which are considered necessary for [one or more of] the following purposes:-

- a) securing the efficient working of a drainage system in the Council's area,
- b) regulating the effects on the environment in the Council's area of a drainage system,
- c) securing the effectiveness of flood risk management work within the meaning of section 14A of that Act, or
- d) securing the effectiveness of works done in reliance on section 38 or 39 of the Flood and Water Management Act 2010 (incidental flooding or coastal erosion),

together, "the Purposes";-

1. **Commencement of Byelaws**

These Byelaws shall come into operation at the expiration of one month beginning with the day on which they are confirmed by the Secretary of State.

2. **Application of Byelaws**

- (a) These Byelaws shall have effect within the Area;
- (b) the watercourses referred to in these Byelaws are watercourses which are for the time being vested in or under the control of the Council.

3. **Control of Introduction of Water and Increase in Flow or Volume of Water**

No person shall as a result of development (within the meaning of section 55 of the Town and Country Planning Act 1990 as amended ("the 1990 Act")) (whether or not such development is authorised by the 1990 Act or any regulation or order whatsoever or none of them) for any purpose by means of any channel, siphon, pipeline or sluice or by any other means whatsoever introduce any water into any watercourse in the Area so as to directly or indirectly increase the flow or volume of water in any watercourse in the Area (without the previous consent of the Council).

4. **Control of Sluices etc**

Any person having control of any sluice, water control structure or appliance for introducing water into any watercourse in the Area or for controlling or regulating or affecting the flow of water in, into or out of any watercourse shall use and maintain such sluice, water control structure or appliance in accordance with such reasonable directions as may from time to time be given by the Council with a view to securing or furthering one or more of the Purposes.

5. **Fishing Nets and Angling**

No person shall angle or set any nets or engines for the catching or keeping of fish in any watercourse in such a manner as to cause damage to or endanger the stability of the bank of the watercourse or to affect or impede the flow of water.

In this Byelaw “nets” includes -

- (a) a stake net, bag net or keep net;
- (b) any net secured by anchors and any net, or other implement for taking fish, fixed to the soil or made stationary in any other way;
- (c) any net placed or suspended in any inland or tidal waters unattended by the owner or a person duly authorised by the owner to use it for fish, and any engine, device, machine or contrivance, whether floating or otherwise, for placing or suspending such a net or maintaining it in working order or making it stationary.

6. **Diversion or Stopping up of Watercourses**

No person shall, without the previous consent of the Council, take any action, or knowingly permit or aid or abet any person to take any action to stop up any watercourse or divert or impede or alter the level of or direction of the flow of water in, into or out of any watercourse.

7. **Detrimental Substances not to be Put into Watercourses**

No person shall, so as directly or indirectly to obstruct, impede or interfere with the flow of water in, into or out of any watercourse or so as to damage the bank –

- (a) discharge or put or cause or permit to be discharged or put or negligently or wilfully cause or permit to fall into any watercourse any object or matter of any kind whatsoever whether solid or liquid;
- (b) allow any such object or matter as is referred to in sub-paragraph (a) of this Byelaw to remain in proximity to any watercourse in such manner as to render the same liable to drift or fall or be carried into any watercourse.

Provided that nothing in this Byelaw shall be deemed to render unlawful the growing or harvesting of crops in accordance with normal agricultural practice.

8. **Lighting of Fires**

No person shall light or cause or permit to be lighted or commit any action liable to cause to be lighted any fire on any land adjoining the watercourse where such action is liable to set on fire the peat land forming the banks of the watercourse or any vegetation including trees growing on land forming the banks of the watercourse.

9. **Notice to Cut Vegetation**

Any person having control of any watercourse shall, upon the receipt of a notice served on him by the Council requiring him so to do, cut down and keep cut down all vegetation, including trees, growing in or on the bank of a watercourse, within such reasonable time as may be specified in the notice, and shall remove such vegetation, including trees, from the watercourse immediately after the cutting thereof.

Provided that, where a hedge is growing on the bank of a watercourse, nothing in this Byelaw shall require more than the pruning of the hedge so as to prevent it from growing over or into the watercourse, and the removal of the resultant cuttings.

10. **No Obstructions within 8 Metres of the Edge of the Watercourse**

No person without the previous consent of the Council shall erect any building or structure, whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the landward toe of the bank where there is an embankment or wall or within 9 metres of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 9 metres of the enclosing structure.

11. **Repairs to Buildings**

The owner of any building or structure in or over a watercourse or on the banks thereof shall, upon receipt of a notice from the Council that because of its state of disrepair –

- (a) the building or structure is causing or is in imminent danger of causing an obstruction to the flow of the watercourse;
- (b) the building or structure is causing or is in imminent danger of causing damage to the bank of the watercourse,

carry out such reasonable and practicable works as are specified in the notice for the purpose of remedying or preventing the obstruction or damage as the case may be within such reasonable time as is specified in the notice.

12. **Control of Vermin**

The occupier of any bank of a watercourse or any part thereof shall, upon being required by the Council by notice, within such reasonable time as may therein be specified, take such steps as are specified in the notice, being such steps as the Council consider necessary and practicable for preventing the bank from becoming infested by rabbits, rats, coypu, foxes and moles or any other wild mammal not being an animal listed in Schedule 5 or Schedule 6 to the Wildlife and Countryside Act 1981, but excluding the water vole from such control.

13. **Damage by Animals to Banks**

All persons using or causing or permitting to be used any bank of any watercourse for the purpose of grazing or keeping any animal thereon shall

take such steps including fencing as are necessary and reasonably practicable and shall comply with such reasonable directions as may from time to time be given by the Council to prevent the bank or the channel of the watercourse from being damaged by such use.

Provided that nothing in this Byelaw shall be deemed to affect or prevent the use of, for the purpose of enabling animals to drink at it, any place made or to be made or constructed as approved by the Council.

14. **Vehicles not to be Driven on Banks**

No person shall use or drive or permit or cause to be used or driven any cart, vehicle or implement of any kind whatsoever on, over or along any bank of a watercourse in such manner as to cause damage to such bank.

15. **Banks not to be Used for Storage**

No person shall use or cause or permit to be used any bank of any watercourse for the purpose of depositing or stacking or storing or keeping any rubbish or goods or any material or things thereon in such a manner as by reason of the weight, volume or nature of such rubbish, goods, material or things causes or is likely to cause damage to or endanger the stability of the bank or channel of the watercourse or interfere with the operations or access of the Council or the right of the Council to deposit spoil on the bank of the watercourse.

16. **Not to Dredge or Raise Gravel, Sand etc**

No person shall without the previous consent of the Council dredge or raise or take or cause or permit to be dredged or raised or taken any gravel, sand, ballast, clay or other material from the bed or bank of any watercourse.

17. **Fences, Excavations, Pipes etc**

No person shall without the previous consent of the Council –

- (a) place or affix or cause or permit to be placed or affixed any gas or water main or any pipe or appliance whatsoever or any electrical main or cable or wire in or over any watercourse or in, over or through any bank of any watercourse;
- (b) cut, pare, damage or remove or cause or permit to be cut, pared, damaged or removed any turf forming part of any bank of any watercourse, or dig for or remove or cause or permit to be dug for or removed any stone, gravel, clay, earth, timber or other material whatsoever forming part of any bank of any watercourse or do or cause or permit to be done anything in, to or upon such bank or any land adjoining such bank of such a nature as to cause damage to or endanger the stability of the bank;
- (c) make or cut or cause or permit to be made or cut any excavation or any tunnel or any drain, culvert or other passage for water in, into or out of any watercourse or in or through any bank of any watercourse;

- (d) erect or construct or cause or permit to be erected or constructed any fence, post, pylon, wall, wharf, jetty, pier, quay, bridge, loading stage, piling, groyne, revetment or any other building or structure whatsoever in, over or across any watercourse or in or on any bank thereof;
- (e) place or fix or cause or permit to be placed or fixed any engine or mechanical contrivance whatsoever in, under or over any watercourse or in, over or on any bank of any watercourse in such a manner or for such length of time as to cause damage to the watercourse or banks thereof or obstruct the flow of water in, into or out of such watercourse.

Provided that this Byelaw shall not apply to any temporary work executed in an emergency but a person executing any work so excepted shall, as soon as practicable, inform the Council in writing of the execution and of the circumstances in which it was executed and comply with any reasonable directions the Council may give with regard thereto.

18. **Tidal Outfalls**

No person shall place or cause to be placed or abandon or cause to be abandoned upon the foreshore any trees, roots of trees, branches, timber, tins, bottles, boxes, tyres, bricks, stones, soil, wire, rubbish or other object or matter whatsoever which (whether immediately or as a result of subsequent tidal action) may impede or be likely to impede the flow of water through the sluices or outfall pipes through the tidal banks or through the watercourses on such foreshore or impede or be likely to impede the operation of such sluices or outfall pipes or may cause or be likely to cause damage thereto.

19. **Interference with Sluices**

No person shall without lawful authority interfere with any sluice, or other water control structure or appliance for controlling or regulating the flow of water in, into or out of a watercourse.

20. **Mooring of Vessels**

No person shall moor or place any vessel in any watercourse or to or upon the bank of any watercourse in such manner or by such method as to cause or be likely to cause injury to such bank or in such manner as materially to obstruct or impede the free flow of water in, into or out of any watercourse.

21. **Unattended Vessels**

No person shall leave any vessel unattended without taking due care to prevent such vessel from materially obstructing or impeding the free flow of water in, into or out of any watercourse or any sluice in any bank.

22. **Removal of Sunken Vessels**

No person who is the owner of a vessel sunk, stranded, damaged or adrift in a watercourse or, in the case of a sunken vessel which is abandoned, who was the owner immediately before the abandonment shall, after ten days from

the day on which the Council serves on him notice in writing that the vessel is causing obstruction, permit the vessel to remain in the watercourse in such a manner as to impede or harmfully divert the flow of water in, into or out of the watercourse.

23. **Navigation of Vessels**

No person shall navigate any vessels in such a manner or at such a speed as to injure the bank of any watercourse and where the Council have by notice erected at any place limited the speed of vessels passing such place no person shall navigate a vessel at a speed over the bed of the watercourse greater than the speed so limited.

Provided that the Council shall not exercise their powers under this Byelaw so as to limit the speed of –

- (a) vessels in any tidal waters except after consultation with the Department for Transport, or
- (b) vessels navigating waterways of the British Waterways Board for which speed limits are prescribed by the Byelaws of such Board.

24. **Damage to Property of the Council**

No person shall interfere with or damage any bank, bridge, building, structure, appliance or other property of or under the control of the Council.

25. **Defacement of Notice Boards**

No person shall deface or remove any notice Board, notice or placard put up by the Council.

26. **Obstruction of the Council and Officers**

No person shall obstruct or interfere with any member, officer, agent or servant of the Council exercising any of his functions under the Act or these Byelaws

27. **Savings for Other Bodies**

Nothing in these Byelaws shall –

- (a) conflict with or interfere with the operation of any Byelaw made by the Environment Agency or an internal drainage board or of any navigation, harbour or conservancy authority but no person shall be liable to more than one penalty or in the case of a continuing offence more than one daily penalty in respect of the same offence;
- (b) restrict, prevent, interfere with or prejudice the exercise of any statutory rights or powers which are now or hereafter may be vested in or exercised by –
 - (i) any public utility undertaking carried on by a local authority under any Act or under any Order having the force of an Act;

(ii) the undertakings of the Environment Agency and of any water undertaker or sewerage undertaker;

(iii) any public gas transporter within the meaning of part I of the Gas Act 1986;

(iv) any navigation, harbour or conservancy authority;

(v) any person who acts as the operator of a relevant railway asset, with respect to the construction, use or maintenance and repair of any such asset, or the free, uninterrupted and safe use of any such asset and the traffic (including passengers) thereof;

(vi) any local authority;

(vii) any highway authority for the purposes of the Highways Act 1980 (as amended by any subsequent enactment) in relation to any highway whether or not maintainable at public expense;

(viii) any undertaking engaged in the operation of a telecommunications system;

(ix) a relevant airport operator within the meaning of Part V of the Airports Act 1986;

(x) the Civil Aviation Authority and any subsidiary thereof;

(xi) the British Waterways Board;

(xii) the Coal Authority;

(c) restrict, prevent, interfere with or prejudice any right of a highway authority to introduce into any watercourse surface water from a highway, for which it is the highway authority;

(d) restrict, prevent, interfere with or prejudice any right of a licence holder within the meaning of Part I of the Electricity Act 1989 to do anything authorised by that licence or anything reasonably necessary for that purpose;

(e) affect any liability arising otherwise than under or by reason of these Byelaws.

28. **Saving for Crown Lands**

(a) Nothing in these Byelaws shall operate to prevent the removal of any substance on, in or under (or the erection of any structure, building or machinery or any cable, wire or pipe on, over or under) lands belonging to Her Majesty in right of the Crown by any person thereunto authorised by the Crown Estate Commissioners.

- (b) Nothing contained in any of the foregoing byelaws should be deemed to be or shall operate as a grant by or on behalf of the Crown as owner of the foreshore below high water mark of any estate or interest in or right over such foreshore, or any part thereof, nor shall anything contained in or done under any of the provisions of the foregoing byelaws in any respect prejudice or injuriously affect the rights and interests of the Crown in such foreshore, or prevent the exercise thereon of any public rights or prejudice or injuriously affect any right, power or privilege legally exercisable by any person in over and in respect of the seashore.

29. **Arbitration**

- (a) Where by or under any of these Byelaws any person is required by a notice in writing given by the Council to do any work to the satisfaction of the Council or to comply with any directions of the Council, he may within 21 days after the service of such notice on him give to the Council a counter-notice in writing objecting to either the reasonableness of or the necessity for such requirement or directions, and in default of agreement between such person and the Council the dispute shall, when the person upon whom such notice was served is a drainage or local authority be referred to the Secretary of State whose decision shall be final, and in any other case shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party. Where such a counter-notice has been given to the Council the operation of the notice shall be suspended until either agreement has been reached or the dispute has been determined by arbitration in accordance with the provisions of this Byelaw;

- (c) where by or under these Byelaws any person is required by a notice in writing given by the Council to do any work to the satisfaction of the Council or to comply with any directions of the Council and any dispute subsequently arises as to whether such work has been executed or such directions have been complied with, such dispute if it arises between a drainage authority or local authority and the Council shall be referred to the Secretary of State whose decision shall be final, and in any other case shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party;
- (d) where by or under Byelaws 3, 6, 10, 16 or 17 any person is required to refrain from doing any act without the consent of the Council such consent shall not be unreasonably withheld and may be either unconditional or subject to such reasonable conditions as the Council may consider appropriate and where any dispute arises as to whether in such a case the consent of the Council is being unreasonably withheld, or as to whether any conditions subject to which consent is granted are unreasonable, such dispute shall if it arises between a drainage authority or local authority and the Council be referred to the Secretary of State whose decision shall be final, and in any other case such dispute shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party.

30. **Notices**

Notices and any other documents required or authorised to be served or given under or by virtue of these byelaws shall be served or given in the manner prescribed by section 71 of the Act.

31. **Limitation**

- (a) Nothing in these Byelaws shall authorise the Council to require any person to do any act, the doing of which is not necessary for securing or furthering one or more of the Purposes, or to refrain from doing any act, the doing of which does not affect the environment, or adversely affect either (i) the efficient working of the drainage system of the area (ii) the effectiveness of flood risk management work within the meaning of section 14A of the Land Drainage Act 1991, or (iii) the effectiveness of works done in reliance on section 38 or 39 of the Flood and Water Management Act 2010.
- (b) If any conflict arises between these Byelaws and
 - (i) sections 61A to E of the Land Drainage Act 1991 (which relates to the Council's duties with respect to the environment),
or

- (ii) the Conservation of Habitats and Species Regulations 2010 (SI 2010/490) the said Act and the said Regulations shall prevail.

32. **Revocation**

The Byelaws made by the Council on the day of are hereby revoked.

33. **Interpretation**

In these Byelaws, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say:-

“the Act” means the Land Drainage Act 1991;

“Animal” includes any horse, cattle, sheep, deer, goat, swine, goose or poultry;

“Area” means the area under the jurisdiction of the Council;

“Bank” includes any bank, cross bank, wall or embankment adjoining or confining or constructed for the purpose of or in connection with any watercourse and includes all land between the bank and the low water mark or level of the water in the watercourse as the case may be and where there is no such bank, cross bank, wall or embankment includes the top edge of the batter enclosing the watercourse;

“Consent of the Council” means the consent of the Council in writing signed by a proper officer of the Council;

“Council” means the Council;

“Occupier” means in the case of land not occupied by any tenant or other person the person entitled to the occupation thereof;

“Owner” includes the person defined as such in the Public Health Act 1936;

“Relevant railway asset” means

- (a) a network which was transferred, by virtue of a transfer scheme made under Section 85 of the Railways Act 1993, from the British Railways Board and vested in the company formed and registered under the Companies Act 1985 and known, at the date of vesting, as Railtrack PLC,
- (b) a station which is operated in connection with the provision of railway services on such a network, or
- (c) a light maintenance depot.

Expressions used in this definition and in the Railways Act 1993 have the same meaning in this definition as they have in that Act, and a network such as is described in (a) above shall not cease to be such a network where it is modified by virtue of having any network added to it or removed from it.

“The Secretary of State” means the Secretary of State for the Department for Environment, Food and Rural Affairs;

“Vegetation” means trees, willows, shrubs, weeds, grasses, reeds, rushes, or other vegetable growths;

“Vessel” includes any ship, hovercraft (as defined by the Hovercraft Act 1968), lighter, keel, barge, tug, launch, houseboat, pleasure or other boat, aircraft, randan, wherry, skiff, dinghy, shallop, punt, yacht, canoe, raft, float of timber or any other craft whatsoever, and howsoever worked, navigated or propelled;

“Water control structure” means a structure or appliance for introducing water into any watercourse and for controlling or regulating or affecting flow, and includes any sluice, slacker, floodgate, lock, weir, dam, pump, or pumping machinery;

and other expressions shall have the same meanings as in the Act.

THE COMMON SEAL OF THE

**COUNCIL was hereunto affixed on the
in the presence of:**

**The Chief Executive (or other
authorised officer)**

PENALTY NOTE

By section 66(6) of the Act every person who acts in contravention of or fails to comply with any of the foregoing Byelaws is liable on summary conviction in respect of each offence to a fine not exceeding the amount prescribed from time to time for level 5 on the standard scale referred to in section 37 of the Criminal Justice Act 1982 and a further fine not exceeding Forty pounds for every day on which the contravention or failure is continued after conviction. By section 66(7) of the Act if any person acts in contravention of or fails to comply with any of these Byelaws the Council may without prejudice to any proceedings under section 66(6) of the Act take such action as may be necessary to remedy the effect of the contravention or failure and may recover the expenses reasonably incurred by it in doing so from the person in default.

(N.B. This note may accompany the Byelaws, but is not part of them)

Halton Borough Council - Proposed Land Drainage Byelaws

Procedure and Indicative Timetable

- 10/01/13** Executive Board consider / approve Draft Land Drainage Byelaws for initial consultation.
- 21/01/13** Send Draft Byelaws to Defra, Flood Management Division for informal checking.
- 01/03/13** Initial Consultation with the following - to make sure that the proposed byelaw does not conflict with or interfere with the operation of their byelaws (Section 66(9) of the LDA 1991)
- Natural England
 - North West Inshore Fisheries and Conservation Authority (IFCA)
 - Acting Conservator of the River Mersey (ACRM)
 - United Utilities
 - Canal and River Trust (formerly British Waterways)
 - Manchester Ship Canal Company
- 31/03/13** Receive comments from initial consultation process, consider amendments, prepare report to Full Council recommending Halton Land Drainage Byelaws;
- April 2013** Full Council consider and, subject to agreement, make Halton Land Drainage Byelaws (to be signed, sealed and dated) and approve statutory advertisement.
- May 2013** Statutory Advertisement – Minimum one month period
- Advertise in one or more newspapers circulating in the area and on the Council's website, Halton Council's intention to apply to the Secretary of State for the Environment, Food and Rural Affairs for confirmation of the byelaws;
- Deposit a copy of the byelaws made at the Council's Offices for public inspection. (Council's main administrative centres and Direct Link offices);
- Supply a copy of the byelaws made to any person upon application;
- Supply a copy of the byelaws made to the following local and other public authorities:

- Hale Parish Council
- Halebank Parish Council
- Daresbury Parish Council
- Moore Parish Council
- Preston Brook Parish Council
- Sandymoor Parish Council
- St Helens Metropolitan Borough Council
- Knowsley Metropolitan Borough Council
- Warrington Borough Council
- Cheshire West Council
- Cheshire East Council
- Cheshire Constabulary
- Cheshire Fire and Rescue
- Network Rail
- The Highways Agency

Note: One month period for written objections to be received.

June 2013 Halton to write to all objectors, responding to any particular points raised and explaining why it believes the proposed byelaws are justified. Objectors invited to consider withdrawing their objections;

Note: Two week period for objectors to withdraw or sustain their objections or offer further comments. Objections will stand if objectors decline to enter into further correspondence;

Oct 2013 If objections cannot be resolved, Full Council consider report of objections and whether amendments to byelaws should be approved.

If modifications result in substantive change, the amended byelaws should be re-advertised or give all affected parties the opportunity to comment upon them;

Oct 2013 *Note: may be earlier if no objections received. Earliest date at expiry of one month from the date of publication of the notice.*

Apply to the Minister Secretary of State for the Environment, Food and Rural affairs for confirmation of the byelaws, sending:

- Two sealed and signed copies of the byelaws;
- Statement as to deposit (where deposited, dates and times, copy of the newspaper page(s) and website page(s) where advertised;

- Copies of any objections that may have been received and Halton's response;
- Statement that local and other public authorities (naming them) were notified and when.

REPORT TO: Executive Board

DATE: 10 January 2013

REPORTING OFFICER: Strategic Director – Policy and Resources

PORTFOLIO: Transportation

SUBJECT: Report of Waiver of Procurement Standing Orders, for Highway Works at Clifton Court, Runcorn

WARDS: Heath

1.0 PURPOSE OF THE REPORT

- 1.1 To report a waiver of Procurement Standing Order 4.1: Competition Requirements in accordance with Procurement Standing Order 1.8.2: Emergency Procedures.

2.0 RECOMMENDATION: That Executive Board note a waiver granted under 1.8.2 - Operational Director approval, in respect of a contract to complete highway adoption works at Clifton Court, Runcorn.

3.0 SUPPORTING INFORMATION

- 3.1 In May 2012, following consultation with Council's Head of Procurement, the Highway Planning and Development Division awarded a contract in the sum of £10,272.10 to WPI Surfacing Ltd. for the completion of carriageway surfacing works at Clifton Court, Runcorn. The works were necessary to secure the formal adoption of the street, after the developer went into liquidation approximately 7 years ago leaving the carriageway construction incomplete.
- 3.2 The Council had liaised over a number of years with the liquidator and the residents of Clifton Court, assisted by their ward councillors, to resolve ownership issues and to secure funding for the completion of the work that would enable adoption of the street to proceed. Three written quotations for the work had been invited and received in Autumn 2011 to enable a price for the work to be established that would allow negotiations with the liquidator and the residents to progress.
- 3.3 By May 2012, the protracted negotiations with the liquidator had been completed and sufficient funding was secured to enable the highway completion works to proceed. The contractor WPI Surfacing, who had submitted the lowest tender the previous year, was in a position to undertake the works immediately. In order to achieve best value for the residents, who were funding the construction works, certain elements of

work within WPI's original quotation were reviewed and the estimated cost of the scheme was reduced to £10,272.10.

- 3.4 Whilst the price was marginally in excess of the threshold of £10,000 set under Procurement Standing Order 1.8.2, to avoid further delay to residents, and the risk of them withdrawing their financial support for the scheme, and acting on advice from the Head of Procurement, Standing Order provision 1.8.2 - Operational Director emergency approval was used, and the works were ordered from WPI Surfacing Ltd.
- 3.5 The works were completed satisfactorily on 12th June 2012 and Clifton Court was formally adopted on 18th June 2012.

4.0 POLICY IMPLICATIONS

4.1 None

5.0 OTHER IMPLICATIONS

5.1 None

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

6.1.1 No direct implications for this priority

6.2 Employment, Learning and Skills in Halton

6.2.1 No direct implications for this priority

6.3 A Healthy Halton

6.3.1 No direct implications for this priority

6.4 A Safer Halton

6.4.1 No direct implications for this priority

6.5 Halton's Urban Renewal

6.5.1 Adoption of the road ensures that it is maintained to a standard which is appropriate for Halton's urban areas.

7.0 RISK ANALYSIS

7.1 There are not considered to be any significant risks associated with the course of action described in the report

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 There are no equality and diversity implications. The course of action described is likely to impact positively on disabled or mobility impaired people.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Clifton Court Highway Adoption File	Rutland House	Jonathan Farmer/ Martin Kavanagh

REPORT TO: Executive Board

DATE: 10th January 2013

REPORTING OFFICER: Strategic Director, Children & Enterprise

PORTFOLIO: Resources

SUBJECT: Waiver of Standing Orders under Emergency Procedures in respect of Widnes ICI Rec Club Demolition

WARD(S) Kingsway

1.0 **PURPOSE OF THE REPORT**

1.1 The purpose of the report is to notify members that a waiver of standing orders was granted in respect of the demolition of Widnes Recreation Club following the fire in May 2012.

2.0 **RECOMMENDATION: That Members note that a waiver of Standing Orders under SO1.8.1, “emergency waiver via the Chief Executive”, was obtained to allow us to seek quotations without going out for expressions of interest. This enabled us to procure the works as quickly as possible to minimise any potential health & safety risks.**

3.0 **SUPPORTING INFORMATION**

3.1 Widnes ICI Recreation club was destroyed by fire on 2nd May 2012. Emergency demolition works were carried out immediately after the Fire Service had left site in order to remove the immediate danger of structural collapse of the walls that remained standing.

3.2 Following consultation with the HSE it became clear that the remaining debris had to be treated as contaminated waste as there was a reasonable amount of asbestos present within the building. Damping down was carried out at regular intervals to ensure that the possibility of any asbestos release was minimised, air monitoring was also put in place to monitor asbestos levels, these remained negligible throughout.

3.3 In view of the above it was imperative that the debris was removed from site as quickly as possible in order to minimise risk. Following discussions with the Head of Procurement it was agreed that the most appropriate course of action was to obtain a waiver of standing orders under SO1.8.1, “emergency waiver via the Chief Executive”, to allow us to seek quotations without going out for expressions of

interest. The waiver was duly requested and obtained.

3.4 Tenders for the removal of the contaminated debris and site clearance works were obtained via The Chest from each of the demolition contractors who had won the previous 3 tender exercises for demolition works, these being for the demolition of Queens Hall, Catalyst House and the Solutia & Biotrace (Mersey Gateway) buildings respectively. As the 3 contractors in question had won previous tender exercises they had all been market tested and had proved to be offering value for money. The contractors in question were M.J. Finnigan, S. Evans and Oldham Bros.

3.5 Following evaluation of the 3 tenders received S Evans were appointed to carry out the necessary demolition and site clearance work. The total cost of all works associated with the demolition and site clearance was circa £460,000. The reason the cost was so high was as a result of the presence of asbestos and the fact that all debris had to be treated as contaminated waste. Measures also had to be put in place to ensure site security, and to monitor asbestos levels throughout the duration of the work.

4.0 **POLICY IMPLICATIONS**

4.1 None.

5.0 **OTHER/FINANCIAL IMPLICATIONS**

5.1 As mentioned above the total cost of the works amounted to £460,000.

6.0 **IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 **Children & Young People in Halton**

None

6.2 **Employment, Learning & Skills in Halton**

None

6.3 **A Healthy Halton**

None

6.4 **A Safer Halton**

Measures were put in place throughout the work to ensure risks to the public were minimised as far as practical

6.5 **Halton's Urban Renewal**

The demolition of the building does enable the site to be redeveloped in due course.

7.0 **RISK ANALYSIS**

The main risks associated with not taking this action and delaying the works by having to go through a full procurement exercise was the fact that there was the potential for asbestos to become airborne and thus cause an exposure risk to the public as such it was imperative that the debris was removed as quickly as possible.

8.0 **EQUALITY AND DIVERSITY ISSUES**

None

9.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None under the meaning of the Act.

REPORT TO: Executive Board

DATE: 10th January 2013

REPORTING OFFICER: Strategic Director, Children and Enterprise

PORTFOLIO: Resources

SUBJECT: Removals Contract – Interim Waiver of Standing Orders

WARD(S) Borough-wide

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to seek an temporary Waiver of Standing Orders for the Council's (Accommodation) Removals Contract

2.0 RECOMMENDATION: That:

1) Members approve a waiver of Standing Orders in regard to Part 4 section 4.1 of the Constitution; and

2) the Waiver shall be effective up to 31st March 2013.

3.0 SUPPORTING INFORMATION

3.1 Members will be aware that, in light of the current budgetary constraints the Council is facing, the Council's Accommodation Plan is focused on reducing the number of Council offices and premises that the Council owns, manages and or maintains. In addition, a significant amount of work has taken place recently to generate additional income for the Council by co-locating partners within the Council's property portfolio and charging rent accordingly.

3.2 This area of work is fast changing and many accommodation requests are made at short-notice often to maximise in year savings. Consequently, the Council often relies on existing well-established relationships with contractors to relocate staff, and to implement accommodation requests as quickly and as efficiently as possible.

3.3 Recently, however, the Council's Economy, Enterprise and Property department has been reviewing expenditure across all our service areas. In particular, with the support of the Procurement Division, the department has been considering how maximum value can be obtained from the services used to deliver the organisation's Accommodation Plan. As part of this review it is considered that the next key area to be considered should be the arrangements for removing/moving equipment and office furniture, as

currently, the Council does not have in place a formal Removals Contract. Halton Borough Council has been using a local company for a number of years to deliver this service.

- 3.4 In order to progress a formal procurement of these services in the future, advice from the Procurement Division would be to undertake an open market exercise via the Chest to source three quotations. This is because the total expenditure for the contract would be under EU thresholds, but nevertheless there would be a requirement to adhere to the Council's Standing Orders.

Before this exercise is undertaken, it is proposed that this process would be delayed for three months, firstly to allow time to draw up a specification that accords with service and user requirements, and secondly to consider the requirement in the Public Services (Social Value) Act 2012 where Halton Council, as the contracting authority, is required to consider the economic, social and environmental improvements where they consider it to be relevant and proportionate through procurement. This Act specifically relates to service contracts.

It is felt that a future Removals Contract would contain the elements required to pilot the Council's approach to the Act in procurement terms, not least because a balance between meeting economic, social and environmental outcomes, alongside value for money, proportionate to the type and level of contract will need to be assessed.

4.0 **POLICY IMPLICATIONS**

- 4.1 The Public Services (Social Value) Act 2012 places a requirement on the commissioners to *only consider* economic, social and environmental improvements that could be achieved through procurement and to take account of their relevance to the contract requirements and to ensure this is proportionate.

By simply using the Framework described above, there is a risk this contract would be awarded to a contractor that is not in the Halton Borough. Although this is compliant with EU Law we want to examine the option of how social value measured through procurement provides the best opportunity for Halton businesses to compete for this contract.

Therefore, by testing the Social Value aspects of the contract as outlined in section 3.4 and 4.1 of the report, consideration would need to be given as to how the contract could bring added value to the borough. Whilst the Act focuses on public services, the Council's Head of Procurement would propose to 'test' this concept in a broader expenditure context and has, therefore, selected this service area to act as a pilot.

5.0 **OTHER/FINANCIAL IMPLICATIONS**

5.1 Current expenditure on office removals associated with the implementation of the Council's Accommodation Plan is £60,000. This figure also includes work undertaken on behalf of schools.

6.0 **IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 **Children & Young People in Halton**

N/A

6.2 **Employment, Learning & Skills in Halton**

The proposal to test the procurement of the removals contract in line with the Public Services (Social Value) Act 2012 presents an opportunity to include wider socio-economic factors including impacts on the local economy as part of the assessment criteria.

6.3 **A Healthy Halton**

N/A

6.4 **A Safer Halton**

N/A

6.5 **Halton's Urban Renewal**

N/A

7.0 **RISK ANALYSIS**

7.1 The Procurement Team has advised that there is a framework contract currently in place, which has been let by Knowsley MBC Using this framework, could possibly save the Council money in the short-term. However, it is not clear whether the Framework offers a like for like comparison with the service required by the Council, nor is it clear at this stage, whether this Framework could guarantee the same rapid and effective response that the Council currently receives from the existing local company.

By simply using the Framework described above, there is a risk this contract would be awarded to a contractor that is not in the Halton Borough. Although this is compliant with EU Law this approach would allow the Council to examine the option of how social value measured through procurement provides the best opportunity for Halton businesses to compete for this contract.

Therefore, by testing the Social Value aspects of the contract as outlined in section 3.4 and 4.1 of the report, consideration would need to be given as to how the contract could bring added value to the Borough.

8.0 **EQUALITY AND DIVERSITY ISSUES**

8.1 An Equality and Diversity assessment will be included in any tender documentation and selection criteria.

9.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

Document	Place of Inspection	Contact Officer
Social Value Act (2012)	Floor 5 Municipal Building	W Rourke 0151 511 8645

REPORT TO: Executive Board
DATE: 10th January 2013
REPORTING OFFICER: Strategic Director, Children and Enterprise
PORTFOLIO: Resources and Physical Environment
SUBJECT: Markets Update
WARD(S) Appleton

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to update Members on changes to how the Borough's markets are being managed and to set out proposals for improving the markets offer.

2.0 RECOMMENDATION: That:

- 1) Members note the changes made to the management of the markets;**
- 2) the proposed actions set out in sections 3.6 to 3.12 of the report be supported;**
- 3) the Operational Director for Economy, Enterprise and Property be authorised, in consultation with the Physical Environment Portfolio Holder and Resources Portfolio Holder to take decisions in relation to the proposed improvement works outlined in section 3.16 of the report; and**
- 4) the proposed improvement works will not exceed £40,000.**

3.0 SUPPORTING INFORMATION

3.1 In January 2012 the National Association of British Market Authorities (NABMA) Consultancy Services (NCS) completed a review of Widnes Market. NABMA is the recognised voice of local authority markets.

In February 2012 a report to the Council's Executive Board reaffirmed the Council's policy that the Widnes Markets (indoor and outdoor) and the outdoor market at Runcorn are regarded as key assets in Halton's town centres and that the vitality of the town centres and, in turn, the future sustainability of the markets are inextricably linked.

3.2 However, the Executive Board concluded that the NABMA recommendations contained in the review would need to be evaluated. Members requested that,

were there to be any financial implications associated with the implementation of these recommendations, then a further report would need to be provided.

- 3.3 In April 2012 the Council aligned the management of the town centres and markets within a more clearly defined economic regeneration brief and brought town centre management, markets operations and town centre regeneration within one reporting arrangement. It was acknowledged that vibrant town centre including thriving markets, can contribute to the overall offer that the Borough can make to potential inward investors or employers, and also offer a shopping environment that will attract shoppers from Halton and beyond.
- 3.4 The management of the markets fall within the remit of the Regeneration team (led by one of two regeneration managers). The Trader Liaison and Regeneration Officer is responsible for the management of the markets. Support is provided by two part time (fixed term to April 2013) town centre coordinators.
- 3.5 It must be noted, that in the last two years the number of staff working in the markets has been reduced by approximately 50%. Emphasis, therefore, has been placed on deploying our limited staff resources more effectively i.e. 'having the right people, doing the right job, at the right time'. There has also been a streamlining of cleaning, caretaking and security functions within the market.
- 3.6 Since April, existing systems and procedures within the markets are being improved and in some instances new procedures have been introduced to ensure that the markets are 'fit for the future'. New colleagues should be commended for their hard work in bringing in new changes in difficult circumstances.
- A number of formal and informal meetings have been held with traders to advise them of the proposed changes to the management of the market.
- 3.7 New Market regulations and a written protocol have now been introduced. Although initially nervous of the proposed changes, it is fair to state that these measures have been welcomed by the vast majority of Traders because the documents clearly set out the respective roles and responsibilities of Traders and Markets staff.
- 3.8 Running alongside the introduction of new procedures, there has been a tightening up of issues such as 'encroachment' and displaying of goods
- 3.9 A 'new stall requests' panel has been introduced. The panel comprises, the Portfolio Holder, Operational Director, Trader Liaison and Regeneration Officer and a Market Trader. The panel ensures that decisions on new stalls are made in a strategic, fair and transparent way. As 'landlord' the final decision to accept or not accept a new tenant rests with the Council.

- 3.10 There have also been a number of marketing and promotions events in the market and examples include: -
- Easter give away of a day break via local coach company Hardings travel following Easter egg hunt for children;
 - Diamond Jubilee June Bank Holiday: Pre bank holiday voucher give away by on street sandwich board person, over £800 in one pound vouchers were redeemed in the market during the promotion;
 - The Widnes Market Pound. A bank, set up in the market sold pounds that were only currency within the market. For every £10 bought by the customer, we gave them £1 free, so wherever the money was spent, they were able to spend and get 10% extra at no cost to them. Over £8,500 Widnes Market Pounds were purchased, most were spent in the market on larger objects such as carpets and fireplaces. However, some of the smaller traders also found them being used during the Love Your Market month;
 - Widnes On Sea: four days of activity including a Victorian Helter Skelter, children's fairground rides, Face Painting, Donkey rides, traditional Punch and Judy plus a mini beach. Over 11,000 vouchers were handed in for the rides and activities over the 4 days. Vouchers were obtained by purchasing goods from the market traders. This took place on the last full week of August, preceding the Bank Holiday.
- 3.11 In all the above promotions have resulted in a reach on Facebook of over 130,000 people per event, with a peak of 200,000 for the Widnes on sea promotion.
- Press coverage has increased by over 200% from where it was two years ago and the take up of stories has increased from sub regional to regional, national, periodical and trade press, with requests for further information being made from all sources.
- 3.12 Since April the focus has been on diversifying the offer at the market. This has been evidenced by the relocation of the Shopmobility service within the market hall. Similarly, colleagues within the Economy Enterprise and Property department who are responsible for business start-ups, have been working with markets staff to support potential entrepreneurs by offering space within the indoor and outdoor markets.
- 3.13 Occupation of stalls at the market are very good (91% full) and requests for new business are steady. Between July 2012 and September 2012 we have received 19 new stall requests on the market, of which 6 have been accepted. During this time traders have given notice on 3 stalls..
- 3.14 It is appreciated that there still a number of improvements to make to how the markets are managed. For example, the markets financial systems are being updated, Sunday trading is also being piloted in the 'run up' to Christmas and

an energy audit is being undertaken. The team have talked about the possibility of allowing traders to advertise (at a small cost) in the entrance foyer. Staff are looking at an improved market stall layout plan with colour coding of the stalls in the market entrance with the advertising around this.

Overall, the market remains vibrant.

3.15 Consequently, new staff on the market have now had an opportunity to evaluate the NABMA report and its recommendations and would now wish to propose some actions and activities for Members' consideration aimed at improving the markets.

3.16 Proposals are set out as follows: -

IMPROVEMENT WORKS

INDOOR MARKET

- Refurbish the main entrance with improved lighting, decoration, signage
- Allow for closing off some end shutters on selected small stalls to put new seating
- Allow for possible upgrade of the ground floor public toilets
- Allow for upgrading 2 No stalls to act as an event space
- Introduce Footfall Counters
- Installation of WiFi

OUTDOOR MARKET

- Remove and replace 2 no ornamental lighting columns with standard columns
- Allow for new entrance upgrade with signage to match indoor market including reconfiguring the fencing as required
- Improved branding and marketing and signage and sheeting for stalls

4.0 POLICY IMPLICATIONS

4.1 There are no further policy implications associated with this report. The report was considered by the Corporate Resources Policy Performance Board. The PPB is fully supportive of the proposals contained in this report.

5.0 OTHER/FINANCIAL IMPLICATIONS

5.1 One-off funding of £40,000 was earmarked at the end of 2011/12, which Members can determine for use with the Market. This is insufficient for all proposed activities outlined, but could be made available if Members want to address these areas in part. Alternatively, these funds could be put forward for further consideration as a one-off budget saving proposal.

6.0 **IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 **Children & Young People in Halton**

N/A

6.2 **Employment, Learning & Skills in Halton**

The markets allows potential entrepreneurs and fledgling businesses the opportunity to set up in a supportive and low risk environment.

6.3 **A Healthy Halton**

N/A

6.4 **A Safer Halton**

N/A

6.5 **Halton's Urban Renewal**

As mentioned earlier in the report, the markets contribute to supporting the respective town centres. It also encourages local residents to 'shop local'.

7.0 **RISK ANALYSIS**

7.1 There is a risk that the Council does not see a return on its investment through increased footfall in the markets and wider town centres and an increase in traders paying rent. However, it is argued that a modest investment at this time will help to consolidate the role of the markets in town centre regeneration.

8.0 **EQUALITY AND DIVERSITY ISSUES**

8.1 The proposal includes improving the access to the market. A disability audit has taken place and the proposals reflect recommendations arising from the audit.

9.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

Document	Place of Inspection	Contact Officer
NABMA Review	Floor 5 Municipal Building	W Rourke
Research and Intelligence Widnes Market Questionnaire and Review July 2011	Floor 5 Municipal Building	W Rourke

REPORT TO: Executive Board

DATE: 10 January 2013

REPORTING OFFICER: Strategic Director, Communities

PORTFOLIO: Neighbourhood, Leisure & Sport

SUBJECT: Variation of the non-statutory fees of Halton Registration Service for 2014/2015

WARDS: Boroughwide

1.0 PURPOSE OF THE REPORT

1.1 To seek the approval of the Board to vary the non-statutory fees offered by Halton Registration Service for 2014/2015.

2.0 RECOMMENDATION: That the Board approves the following variations to the non-statutory fees of Halton Registration Service as set out in Appendix 1.

3.0 SUPPORTING INFORMATION

3.1 The Marriage Act 1995 and the Civil Partnership Act 2005 allows local authorities to set fees for ceremonies in approved premises. In January 2011 the Executive Board Sub Committee agreed to set the Registration Service's non-statutory fees outside the usual timeframe for setting fees due to ceremonies being planned up to two years in advance.

3.2 The proposed fee structure shown in Appendix 1 is for 2014/15, the fees have already been set for 2013/14. The fees for Ceremonies in the Boston Suite will increase at a higher percentage to achieve a more realistic fee to reflect the standard of the facilities provided.

3.3 In previous years, comparisons have been made based on available information from neighbouring Registration Districts. However, it should be noted that it is not possible to conduct a like-for-like comparison, due to the high standard of the facilities that are provided at Runcorn Town Hall. These facilities briefly comprise a choice of six ceremony rooms whose decoration and furniture are of a superior standard, award winning 'Green Flag' gardens and grounds, designated limousine parking and a large free car park for guests.

3.4 The early setting of fees for 2014/15 is necessary as the Registration Service will hold its annual Wedding and Ceremony Fayre on 17 February 2013. As most ceremonies are arranged up to two years in

advance, it will be advantageous to have a published fee structure in place for this main promotional event, so that customers understand the amount they will be expected to pay. The early setting of the fees will also enable the Service to forward plan more effectively to achieve its income targets.

4.0 POLICY IMPLICATIONS

4.1 The above proposals are in line with the Authority's new governance arrangements for delivery of registration services as outlined in the White Paper "Civil Registration: Vital Change" (2002), which enables the authority to have the freedom to make policy decisions locally without recourse to the General Register Office.

5.0 FINANCIAL IMPLICATIONS

5.1 The proposed timeframe for fees will take effect from 1 April 2014 unless otherwise specified.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children & Young People in Halton

None identified.

6.2 Employment, Learning & Skills in Halton

None identified.

6.3 A Healthy Halton

None identified.

6.4 A Safer Halton

None identified.

6.5 Halton's Urban Renewal

None identified.

7.0 RISK ANALYSIS

7.1 There are no anticipated risks associated with these recommendations.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 An Equality Impact Assessment of 8th May 2012 found that there were no equality or diversity issues in the setting of the Registration Service fees,

against any of the protected characteristic groups.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
New governance arrangements for the delivery of the Halton Registration Service, Executive Board Sub Committee (29 March 2007)	Halton Register Office	Registration Service Manager Superintendent Registrar

APPENDIX 1 Charges - Halton Registration Service

Service	2013/14	2014/15
Reservation Fee (non returnable)	40.00	50.00
Fee for telephone applications	25.00	25.00
Fee for a fast track certificate	30.00	30.00
Fee for a Ceremony Rehearsal	60.00	70.00
Registration of a building under the 1994 and 2004 Acts	850.00	900.00
Change of Name Deed	60.00	70.00
Change of Name Deed (additional copy after registration)	30.00	35.00
Nationality Checking Service		
Adult (Single)	70.00	75.00
Husband / Wife / Civil Partner (applying at the same time)	100.00	120.00
Husband / Wife and two Children	130.00	150.00
Additional Children on parents application (per Child)	25.00	30.00
Children under 18 years applying separately	50.00	60.00
Boston Suite, Runcorn Town Hall (a venue under the 1994 / 2004 Acts)		
Monday to Thursday	156.00	175.00
Friday	166.00	200.00
Saturday	196.00	240.00
Sunday (11am to 1pm)	256.00	300.00
Bank Holiday	No Fee	400.00

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Service	2013/14	2014/15
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Civic Suite,**Runcorn Town Hall (a venue under the 1994 / 2004 Acts)**

Monday to Thursday	256.00	270.00
Friday	266.00	280.00
Saturday	296.00	310.00
Sunday (11am to 1pm)	326.00	345.00
Bank Holiday	No Fee	445.00

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Leira or Members Room**Runcorn Town Hall (a venue under the 1994 / 2004 Acts)**

Monday to Thursday	226.00	240.00
Friday	236.00	250.00
Saturday	256.00	270.00
Sunday (11am to 1pm)	300.00	315.00
Bank Holiday	No Fee	415.00

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Other buildings in Halton (under the 1994 / 2004 Acts)

Monday to Thursday	321.00	340.00
Friday	341.00	360.00
Saturday	391.00	410.00
Sunday	456.00	480.00
Bank Holidays	556.00	580.00